

Government Operations and Audit Committee

The Government Operations and Audit Committee was established by South Dakota Codified Laws (SDCL) 2-6-2. The Committee is appointed at each regular session of the Legislature. The Committee consists of ten members, five members from the Senate appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Judiciary Committee and five members from the House appointed by the Speaker of the House, one of whom shall be a member of the Judiciary Committee.

The responsibilities of the Committee are:

- To inquire and review any phase of the operations and the fiscal affairs of any department, institution, board or agency of the state;
- To examine records and vouchers, summon witnesses, examine expenditures and the general management of departments, as deemed necessary;
- To review any findings of abuse or neglect in a juvenile corrections facility;
- To make a continuing study of the operation of the state's correctional system; and,
- To make a detailed report to the Senate and House of Representatives and submit a copy of its report to the Appropriations Committee of each House of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

Committee Activity

The Committee conducted the following review and study activities during 2005:

- Reviewed audit reports
- Reviewed General Fund contract encumbrances
- Reviewed cash balances of various state funds
- Reviewed specific matters pertaining to various state agencies
- Reviewed quasi-governmental and non-profit entities
- Reviewed activities of the State Comptroller
- Reviewed the state executive aircraft purchase
- Reviewed juvenile corrections

Reviewed Audit Reports

The Committee reviewed the South Dakota Single Audit Report for the fiscal year ended June 30, 2004 and separately issued audit reports issued during 2005. The following summarizes the actions that were taken by the Committee.

Financial and compliance audits involve testing financial transactions of the state to determine that all money is properly accounted for and expended in accordance with state and federal laws and regulations. All audits conducted on state agencies were consolidated and reported in the Single Audit Report. The Single Audit Report includes the Comprehensive Annual Financial Report for the State of South Dakota prepared by the Bureau of Finance and

Management, a schedule showing the federal awards administered by the state and related expenditures, and audit findings and recommendations issued by the Department of Legislative Audit.

The Single Audit Report was issued in accordance with Auditing Standards Generally Accepted in the United States of America, Government Auditing Standards issued by Comptroller General of the United States and South Dakota Codified Laws. A copy of this report may be obtained from the Department of Legislative Audit.

The Committee reviewed financial reporting, internal control and compliance deficiencies written on 11 state organizations, containing 23 recommendations for corrective action. Four recommendations related to violations of state laws and regulations; ten recommendations related to violations of federal laws and regulations; and, nine recommendations related to inadequate internal control procedures over receipts, revenue collections and expenditures and financial reporting.

The following represents the state agencies with audit findings and recommendations from fiscal years 2004 and 2003 and the implementation of fiscal year 2003 audit recommendations:

State Agency	Recommendations		
	Fiscal Year	Fiscal Year	FY2003 Imple-
	<u>2004</u>	<u>2003</u>	<u>mented</u>
Bureau of Finance and Management	1	0	N/A
Bureau of Information and Telecommunications	1	0	N/A
Department of Revenue and Regulations	1	0	N/A
Department of Agriculture	2	0	N/A
Department of Tourism and State Development	2	0	N/A
Department of Labor	2	0	N/A
Education, Department of	1	1	1
South Dakota School of Mines and Technology	2	0	N/A
Housing Development Authority	0	1	1
Military and Veterans Affairs, Department of	5	4	1
School and Public Lands	0	2	2
Social Services, Department of	6	7	1

N/A This agency did not have any FY 2003 audit recommendations.

The Committee sent letters to eight state agencies with audit findings and encouraged the state agencies to implement the audit recommendations. The Committee requested two state agencies to provide written reports to the Committee within thirty (30) days on the status of actions taken to implement the audit recommendations. Two state agencies with audit findings were asked to appear before the Committee to discuss the audit findings. The Committee requested that the Department of Legislative Audit obtain additional information on an audit finding for one state agency. The Committee continues to monitor the responses and corrective actions taken by state agencies.

Reviewed General Fund Contract Encumbrances

The Committee completed a review of general fund contract encumbrances that were in effect

during fiscal year 2005. The general fund contract encumbrances included four fiscal year 2003 general fund contract carryovers totaling \$1,218,516 and 13 fiscal year 2004 general fund contract carryovers totaling \$13,767,173.

The Committee also reviewed general fund contract carryovers that are in effect during fiscal year 2006. The general fund contract encumbrances include two fiscal year 2004 general fund contract carryovers totaling \$173,413 and twenty-seven general fund contract carryovers from fiscal years 2005 totaling \$16,946,271. The Committee requested additional information on two fiscal year 2005 contracts. This continues to be an ongoing agenda item for the Committee.

Reviewed Cash Balances of State Funds

A report was presented to the Committee providing the cash balances of state funds. The Committee selected three representative funds and requested condition statements be provided. After reviewing the condition statements of the sample funds, additional information concerning the future plans for expending resources out of the Future Fund and Railroad Trust Fund was requested by the Committee. The Committee requested additional information on five grants made from the Future Fund and also requested additional information on the deferred maintenance projects identified under the Railroad Trust Fund and a breakdown of contractual services covering a three year period.

Reviewed Specific Matters Pertaining to Various State Agencies

Department of Social Services - Division of Child Protection Services

The Department of Social Services provided the Committee with background information on the state and federal laws, rules and regulations related to child protection services. The Committee was informed that the mission for child protection services was to strive to assure the safety, permanency, and well-being of all children served by the division. Various aspects of the division were discussed including: number of referrals and the referral process; safety interventions; alternative care; adoptive services; licensed foster care homes; intensive family services; central registry for substantiated reports of abuse and neglect; initial family assessments; and departmental financing. The Committee received public testimony at several meetings concerning the operations of the Division of Child Protection Services. Further discussions were held to address various Committee member questions and this continues to be an ongoing agenda item. This review resulted in the committee approving the following draft legislative bill to be presented to the Executive Board of the Legislative Research Council.

An Act to provide the notification by the Department of Social Services to parents of certain determinations of child abuse or neglect. This is designated as House Bill 557M0124.

This act would require the Department of Social Services to make a reasonable effort to inform each of the child's parents of the determination that abuse or neglect has occurred.

Department of Corrections

The Committee reviewed the condition statements of the various funds administered by the Department of Corrections.

A review of the Mike Durfee State Prison's personnel and safety issues along with the overall conditions at the prison was conducted by the Committee. Public testimony was received at a Committee meeting held in Yankton and Springfield. The Committee was provided a tour of the facility. Issues and concerns of the Committee that were addressed as part of the meeting included: residency requirements for the warden; lighting; food quality; infractions and disciplinary actions; aftercare of prisoners; security cameras; perimeter fencing; staffing levels and promotions; job responsibilities; employment opportunities and educational programs for prisoners; alcohol and chemical dependency programs for prisoners; communication issues top to bottom; and, the prison's disaster recovery plan. Based on these activities, the Committee had the following observations or developed the following recommendations:

- There is a gap in communications between the administration and the guards, and between the administration and the inmates. The new constructions and infusion of new inmates is causing unrest and the details need to be communicated to ease some of the tension associated with the changes.
- Security camera that would offer additional safety have been purchased, but have not been installed due to electricians working on new construction and not having available time. The Committee feels it is very important to hire outside help to install the cameras and not wait for the completion of the building.
- The radio system is outdated. The Committee urges the administration to provide adequate training on the new radios and distribute them as soon as possible.
- The employment and educational opportunities available to prisoners are lacking. More opportunities need to be made available to the current inmates as well as the new inmates who will be housed at the newly constructed barracks.
- The Committee requests a written report updating the members on the above mentioned recommendations by September 30, 2005.

The Committee received and reviewed the written report from the Department concerning the recommendations made relating to the Durfee State Prison. The Committee requested additional breakdown and specifics concerning the new jobs and educational opportunities created at the prison which was then provided to the Committee.

Department of Transportation – Purchases of Land

The Committee reviewed the state laws and applicable state policies and procedures for obtaining necessary land for various state highway projects in South Dakota and also obtained the views from other states concerning DOT land acquisitions. Investment speculation by individuals on the land needed for highway projects and the potential for delays of highway projects was the concern of the Committee. The Committee requested and received a detailed report on land purchases by the DOT and the price paid whether negotiated or court ordered versus appraised value of the land covering a three year period. The Committee requested and received additional information concerning the length of time the parcels of land was owned by the seller prior to the land being sold to DOT for any parcel that was purchased for \$25,000 or 30% above the original appraised value of the land.

Department of Transportation – Sale of the State Owned Railroad Line

The Committee requested information concerning the proposed sale of the state owned railroad line to Burlington Northern Railroad. Discussions were held with Departmental officials and associated legal representatives for the state. This continues to be an ongoing agenda item for the Committee.

Department of Public Safety – Contract Review

The Committee requested a listing of all contracts entered into by the Department of Public Safety which was reviewed by the Committee. This information was then provided to the Department of Public Safety Agency Review Committee.

Department of Agriculture – Contract Review

The Committee requested a listing of all contracts entered into by the Department of Agriculture. Specific questions and concerns of the Committee were addressed by departmental officials who appear before the Committee. This information was then provided to the Department of Agriculture Agency Review Committee.

Department of Public Safety- Homeland Security Grant

Information concerning the funding level of federal grant awards by fiscal year for the Homeland Security Federal Grant Program was requested by the Committee. The breakdown of the amount of federal funds expended, amount of funds obligated and remaining funds to be obligated was provided to the Committee by the Department of Public Safety. The Department of Public Safety provided the Committee with background on the Homeland Security Grant. The Committee was informed that Homeland security grant money can be used for natural disasters, law enforcement and search and rescue operations, in addition to homeland security activities.

Office of Attorney General

The Committee was provided an overview of internet crimes involving children by representatives from the Attorney General's Office who also responded to various Committee questions.

Department of Revenue - Division of Insurance

The Committee requested information from the Division of Insurance covering their operations and investigations. Information concerning lawsuits, investigation man hours, attorney fees, categories of investigations, processes and procedures followed in conducting investigations, and timelines for completing investigations was requested. Representatives of the Division of Insurance appeared before the Committee to respond to Committee questions. The Committee also received public testimony concerning the Division of Insurance at two separate meetings of the Committee. At the October 3-5, 2005 meeting, the Committee unanimously passed a motion whereby the Government Operations and Audit Committee authorized Representative Klautt and Senator Gant, as co-chairs, to jointly issue such summonses, pursuant to SDCL 2-6-4, as may be necessary, in the absence of voluntary compliance on the part of any witness, to the Committee's ongoing investigation of the activities of the insurance fraud prevention unit of the Division of Insurance. The Committee requested the Department respond to issues raised as part of the public testimony which was provided to the Committee at the November 21, 2005 meeting. The Committee requested additional information from the Division concerning the content of letters sent to insurance companies that request information in conducting a market conduct exam and a detailed listing of convictions obtained by the Division since 1999.

This review resulted in the committee approving three draft legislative bills to be presented to

the Executive Board of the Legislative Research Council. Those bills are:

An Act to require that persons receiving notice of hearing and charges against insurance producers also receive notice of the final determination of the matter. This is a Senate Bill designated as 508M0073.

This Act would amend current law so that a notice of hearing and the charges against a licensee would not be sent to the insurers represented by the licensee or to the appointing agent of a producer. A new paragraph was added which would require that the Director of Insurance send a letter to the licensee, the insurers represented by such licensee and the appointing agent of a producer, which states the final determination of the hearing.

An Act to prohibit an insurance producer from being the beneficiary on certain life insurance policies. This is a House Bill designated as 445M0074.

This Act would amend current law so that any consent to make the benefits under a life insurance contract payable to the insurance producer who sold the life insurance contract is void.

An Act to revise certain provision regarding investigations of the Division of Insurance. This is a Senate Bill designated as 449M0145

This Act would amend current law by requiring any investigation to be completed in a timely manner. Any investigation not completed within twenty-four months is to be reviewed by the Secretary of Revenue and Regulation. If after sixty days, the Secretary has not completed the investigation, the secretary shall forward the matter to the Attorney General who shall review the file and make recommendations to the Secretary for the purpose of ensuring final action. The contents of the report to the Legislature concerning the activities of the insurance fraud prevention unit were amended by adding that the report should also state the outcomes of cases investigated, and the number and type of cases that have been pending without final action for more than twelve months.

Office of Attorney General – Furniture Contract

The Committee requested information on the process followed in awarding the furniture contract for the new Attorney General/DCI Building. Testimony was received concerning the process followed in bidding the contract; the deficiencies noted in the unsuccessful bid; correspondence between Procurement Management and the unsuccessful bidder; and, testimony from the unsuccessful bidder on why the bid was submitted as it was and why that bid should have been considered. No action was taken by the Committee.

Department of Health and Department of Corrections – Pharmacy Contract

The Committee requested information on the process followed in awarding the prescription drug contract for the Department of Health and Department of Corrections. Testimony was received concerning the process followed in bidding the contract; the estimated cost savings resulting from automation of selected services; and alternative views from the unsuccessful bidder. The Department of Health was requested to provide the Committee with the

spreadsheet used to calculate the estimated cost savings from the new contract. This continues to be an ongoing agenda item for the Committee.

Reviewed Quasi-Governmental and Non-Profit Entities

The Committee requested a listing of all audit reports filed with in the Auditor General's Office including the audit requirements for quasi-governmental and non-profit entities. Draft legislation was prepared concerning required audits of these organizations. Representatives from three organizations testified before the Committee concerning the proposed legislation. As a result of the testimony, revisions to the original draft legislation were proposed. This review resulted in the committee approving the following draft legislative bill to be presented to the Executive Board of the Legislative Research Council.

An Act to provide for certain audits of associations of school boards. This is designated as House Bill 179M0006.

This Act would require any association exercising authority contained in SDCL 13-8-10.1 and any pool arrangement organized for the purpose authorized under SDCL 1-24-11 to 1-24-17 inclusive, that provides coverage to school districts, to have a financial and compliance audit performed not less than once every two years. A copy of the report shall be filed with the Department of Legislative Audit. The audit is to be performed in accordance with generally accepted government auditing standards. The Auditor General would be able to examine all financial records of such associations or pool arrangements if deemed necessary and in the public interest.

Activities of State Comptroller Update

The Committee requested and received an update from the State Comptroller on his activities and costs savings attained for the State of South Dakota.

Reviewed the State Aircraft Purchase

The Committee requested a review be performed by the Department of Legislative Audit (DLA) on the purchase of the new state executive aircraft. The Committee was provided a recap of the process followed by DLA in performing the review and the results of the review.

Reviewed Juvenile Corrections

The Committee met in Custer at the STAR Academy operated by the South Dakota Department of Corrections. The STAR Academy is a juvenile offender facility that typically houses over 200 children who have been sentenced to the Department of Corrections by the courts. The Committee received an update on the latest projects and developments relating to juvenile corrections issues from the Department of Corrections personnel.

The Committee reviewed the semi-annual report covering January 1, 2005 through June 30, 2005 from the Juvenile Corrections Monitor (JCM). This report details complaints received at the state owned juvenile corrections facilities. The JCM must immediately notify the Governor, Department of Corrections Secretary, and the Government Operations and Audit Committee in writing of any substantiated abuse or neglect.

Overview of June 30, 2005 Cash Basis Financial Data

The Committee was provided a handout prepared by the Department of Legislative Audit that contained June 30, 2005 cash basis financial data and budgetary information covering all funds of the state. After review, the Committee requested that unused and unnecessary funds be identified and that draft legislation be prepared to eliminate these funds and the associated enabling legislation. Due to timing constraints, this project could not be accomplished in time to include any draft legislation for consideration by the Executive Board of the Legislative Research Council. This continues to be an on going project and the Committee has agreed with the concept of eliminating any unused and unneeded statutorily created funds and the associated enabling legislation concerning those funds.